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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,689	01/27/2004	Mark Philip Chepurny		9470
7590	11/30/2005		EXAMINER	
MARK PHILIP CHEPURNY			HUSBAND, SARAH E	
52 SMITH STREET			ART UNIT	PAPER NUMBER
BRADFORD, ON L3Z 3C9				1746
CANADA				

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/764,689	CHEPURNY, MARK PHILIP
	Examiner Sarah E. Husband	Art Unit 1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (US Patent No. 4,852,594).

Chen discloses a lens cleaning apparatus having cleaning baskets (reservoirs) (922) with agitating bosses (Fig. 4) and drive system links (Fig. 1, Items 921, 9221), gears (drive system) (31, 41), a motor (12, col. 1, ll. 61), a bottom housing having holders (Fig. 1, Item 1), a top housing (Fig. 1, Item 90) and covers for the cleaning reservoirs (shown in Fig. 4). Chen also discloses in Figure 4 that the agitating bosses have a curved front and flat backside and the cleaning reservoirs are cylindrical in shape with a rounded bottom (Fig. 4).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ching Shih (US Patent No. 4,776,360) in view of Sturgeon (US Patent No. 3,460,552) or Saitoh (US Patent No. 6,273,106).

Ching Shih discloses a lens cleaning apparatus having cleaning reservoirs (13) with drive system links (15), a gear train (drive system) (20), a motor (30), a bottom housing having holders (11), a top housing (1) and covers (caps) for the cleaning reservoirs (14). Ching Shih does not specifically disclose agitating bosses. Sturgeon discloses ribs (35) often included in contact storage devices, which when rotated would provide a similar function. As also shown by Saitoh, it is known to use curved surfaces to agitate liquid (Fig. 1; col. 5, ll. 20-35). Ching Shih also discloses the U-shaped links (Fig. 2, Item 15) and a flat drive arm having circular bosses and a drive cam with a flat bar with holes (Fig. 2, Items 25, 23). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Ching Shih with Sturgeon or Saitoh for the benefit of improved cleaning.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not referred to are Gabbert (US 5,347,674), Frantz (US 3,623,492), Litzaw (US 4,907,613) and Wei (US 5,232,003), who teach contact lens cleaning apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah E. Husband whose telephone number is (571) 272-8387. The examiner can normally be reached on M-F 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached at (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEH

MICHAEL BARR  
SUPERVISORY PATENT EXAMINER

